

REMARKS

Claims 2-3, 7-8, 10-24 and 27-29 are pending. Claims 1, 4-6 and 9 are canceled. Claims 24-25 withdrawn and new claims 30-36 are added. Claims 2, 3, 7 and 20 are amended herein. Applicants respectfully submit that no new matter has been added.

Applicants thank the Examiner for withdrawing the 35 U.S.C. §112, first paragraph, rejection of claim 12 for non-enablement.

Applicants also thank the Examiner for the comprehensiveness of the January 25, 2008 rejection and reasonings provided therein. Applicants respond with this request for continued examination with our reasonings provided, which may, of course, disagree with those of the Office.

In the Final Office Action, claims 2-3, 7-8, 13, 17-24 and 27-29 were rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over Canadian Patent No. 2,432,632 (corresponding to U.S. Patent Application Publication No. 2004/0104246) to Kawaguchi et al. (hereinafter "Kawaguchi"), in view of U.S. Patent No. 6,485,479 to Kneirbein.

Applicants have noted the deficiencies of both Kawaguchi and Kneirbein in the prior responses and maintain that both references, either alone or in combination, are inapposite to the present invention, as claimed herein. In the last rejection, the Office Action enumerated various criteria the Office may use in determining obviousness, as well as criteria the Office does not consider useful. Applicants shall endeavor to satisfy the criteria set forth in the Action, but, as views may differ on the particular implementations of those criteria, Applicants reserve the right to advocate their interests to the full extent of the law. Nonetheless, Applicants are happy to cooperate with the Office and with the Examiner, e.g., in an interview, to secure allowance of all or part of the instant claims.

By way of background, Kawaguchi describes several approaches for an adaptor device to interconnect a beverage pack with an enteral or other feeding tube, particularly mechanisms to secure and seal the interconnection. Kawaguchi, however, differs from the present invention, as

claimed, in various ways. For example, as expressly claimed herein, the "adaptor" or connection device in the instant invention is a "rigid tube part," as opposed to the elastic, flexible and deformable counterpart in Kawaguchi. Indeed, the adaptors in Kawaguchi are all geared to form an "elastic fit" between the adaptors and the elastic "fixing member 14." Indeed, every adaptor embodiment in Kawaguchi is formed using at hardest a "semi-hard material," all to allow the distal end of the adaptor 12 and the elastic fixing member to elastically deform to achieve the seal. Several other differences between Kawaguchi and the present invention have also been pointed out in the prosecution of this case, and need not be re-enumerated here.

Applicants have amended claims 2, 7 and 20 to better clarify the invention and overcome the rejections. In particular, Applicants have added additional structure to the connector devices, particularly to attach the connector device to the package on the exterior and interior of the package. More particularly, the attachment secures the connector device to a top surface of the package and also along an interior surface of the package, providing additional attachment and seals.

Applicants respectfully submit that claims 2, 7 and 20, as amended herein, as well as all the claims dependent thereon, are distinguishable from Kawaguchi and any combination of the remaining references, as further discussed herein. Applicants completely disagree with the reasoning for the rejection of claim 8 in the Office Action, particularly the characterization of Kawaguchi as having two rims. The reference identifiers designated as the two rims, i.e., 112b and 112s, correspond to a seal and female threads, respectively, as illustrated in Figure 6 of Kawaguchi. Applicants respectfully submit that these so-called rims in no way correspond to the additional attachment means set forth in the presently amended claims.

More particularly, Applicants respectfully submit that the instant invention, as presently claimed, is nonetheless readily distinguishable from the embodiments set forth in Kawaguchi. For example, the two rim means in the new claims are, upon engagement, disposed on either side of the top portion of the package, i.e., along the interior portion and abutting the exterior surface. The configuration of Kawaguchi, however, is entirely outside of the package, and both of the so called "rims" are disposed above the top portion, neither attached thereto and neither inside nor

adjacent the outside thereof. The remainder of the reference also fails to demonstrate the presently claimed configuration.

With the modifications to the independent claims set forth herein, Applicants respectfully submit that the claims are now in condition for allowance.

With regard to the secondary reference in the §103(a) rejection, Kneirbein describes several sterile connectors or couplers with a protective cap and a "puncturable membrane film" at the bottom, all "a one-piece structure." Whereas Kawaguchi admittedly fails to describe or suggest a cutting member, Kneirbein is cited for this reason. As is readily apparent from the design, the unitary or integral structure and operation of the Kneirbein couplers differ from that of the present invention, as claimed.

As with Kawaguchi, Kneirbein fails to describe or suggest a double attaching means, as set forth in the claims, as amended.

In view of the amendments and arguments set forth herein, Applicants respectfully request that the §103(a) rejection of claims 2-3, 7-8, 13, 17-24 and 27-29 be reconsidered and withdrawn.

Turning once more to the Official Action, claims 14 and 16 also stand rejected under 35 U.S.C. §103(a), as being unpatentable for obviousness over the combination of Kawaguchi and Kneirbein, as applied above, further in view of tertiary reference U.S. Patent No. 4,895,275 to Quinn et al. (hereinafter "Quinn") and further in view of quaternary reference U.S. Patent No. 5,993,422 to Schafer.

The deficiencies of the primary and secondary references have been addressed above, and magnified in view of the instant amendments. The tertiary and quaternary references are cited to cure those deficiencies and by virtue of this large combination demonstrate the obviousness of the present invention. Applicants respectfully disagree.

The dispensing spike assembly of Quinn is a contraption rather different from the claimed invention, both in function and structure, albeit the reference contains some buzz words used in the present invention. In any event, the Office Action indicates only that Quinn describes a TETRA BRICK container, i.e., a puncturable carton container used in the food industry. Applicant is confused as to the relevance of Quinn to claims 14 and 16 of the present invention, which address pump units and dosing units. Accordingly, Applicant respectfully submits that Quinn utterly fails to cure any deficiencies of the primary and secondary references, and utterly fails to suggest to anyone skilled in the art that these references could or should be combined, whether by common sense or analysis. Further Applicant disagrees with the "obvious to modify" argument in the Office Action. Modifying Kawaguchi and Kneirbein to function as in Quinn makes little sense in view of the serious functional and structural differences therebetween.

Quaternary reference Schafer is cited for showing a dosing mechanism, which is admittedly absent in both Kawaguchi and Kneirbein. Schafer generally describes various pump units for use in dosing medicinal fluids, with the emphasis on new pump designs, along with passing references to dosing devices. Nonetheless, quaternary reference Schafer adds precious little to the argument, in no way cures the aforementioned deficiencies of Kawaguchi and Kneirbein, and does not cure the irrelevance of Quinn

Reconsideration and withdrawal of the rejection of claims 14 and 16 are, particularly in view of the amendments to claims 2, 7 and 20, respectfully requested.

Claim 15 was rejected under 35 U.S.C. §103(a) as unpatentable for obviousness over the aforementioned combination of Kawaguchi and Kneirbein further in view of tertiary reference Quinn and further in view of new quaternary reference, U.S. Patent No. 3,001,525 to Hendricks.

Applicant respectfully submits that the deficiencies of Kawaguchi and Kneirbein remain uncured, magnified by the instant claim amendments, and Quinn, apparently relevant solely to the concept of carton usage, fails to remedy these deficiencies. New quaternary reference Hendricks, however, is added to bolster the argument. Applicant respectfully disagrees with this elaborate and tenuous reference combination.

Hendricks is cited to illustrate usage of an intermediate bag. Although Hendricks does show a bag, Applicants consider this fifty one year old reference of little further relevance, with its relevance here entirely restricted to demonstrating the use of an enteral bag, as claimed in dependent claim 15. In view of the deficiencies of the primary, secondary and tertiary references, as set forth above, and claim amendments, Applicants respectfully request that the rejection be reconsidered and withdrawn.

Finally, Claims 10-12 stand rejected under 37 U.S.C. §103(a) as being unpatentable for obviousness over the aforementioned combination of Kawaguchi and Kneirbein further in view of new tertiary reference U.S. Patent No. 4,997,429 to Dickerhoff et al. (hereinafter "Dickerhoff").

Dickerhoff is cited to cure the deficiencies of Kawaguchi and Kneirbein, which admittedly fail to describe a vent or valve, and apparently including a visualization tube. As is readily illustrated in the figures of Dickerhoff, this reference describes a bottle, screw cap dispenser mechanism, which bears little resemblance to the functionality and structure of the present invention, as claimed. Applicants respectfully submit that Dickerhoff fails to remedy the deficiencies of the primary and secondary references, and the proposed combination, particularly with regard to claims 10-12, is inappropriate. Accordingly, reconsideration and withdrawal of the rejection of claims 10-12 are respectfully requested.

Applicants have reviewed the Response portion of the Office Action carefully and the explanations therein, as well as the Examiner's reasonings regarding obviousness. Although the Applicants and the Office may disagree as to the particulars, Applicants are mindful of the difficulties inherent in such a determination, and appreciative of the Examiner's efforts in this case.

Applicants, as indicated, have amended the independent claims in a manner that Applicants believe readily distinguishes these claims from all of the art of record, whether alone or in combination.

In view of the amendments and arguments above, Applicants respectfully submit that the present invention, as claimed, is patentable over the art of record. Accordingly, Applicants respectfully request that the various §103(a) rejections of the claims be reconsidered and withdrawn.

New claims 30-36 are directed to embodiments shown in the specification and described primarily in connection with Figure 5. As set forth in the new claims, there are two rims or attachment mechanisms along the distal end of the tube part. Upon insertion or other engagement, the two rims sealingly and securely engage the connector device to the top portion of the package system or package involved. As illustrated in Figure 5 and described in the specification text, the two rims are spaced apart or arranged sufficiently to sealingly engage at both the exterior and interior surfaces of the package, along a top portion thereof.

As noted, Applicants completely disagree with the reasoning for the rejection of claim 8 in the Office Action, particularly the characterization of Kawaguchi as having two rims, i.e., 112b and 112s, as illustrated in Figure 6 of Kawaguchi. Applicants respectfully submit that these so-called rims in no way correspond to those presently claimed in the new claims, in claim 8 and any other claims.

Applicants respectfully requests that these arguments and amendments be considered by the Examiner prior to further examination on the merits.

Respectfully submitted,

April 25, 2008
Date

Cecilia A. Lopez-Chua
Cecilia A. Lopez-Chua, Reg. No. 48,627
For: Raymond Van Dyke, Reg. No. 34,746

WINSTON & STRAWN LLP
Customer No. 28765

202-282-5971